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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

VIOLET BLUE, an individual,

Plaintiff/Counterclaim Defendant,

vs.

ADA MAE JOHNSON et al.,

Defendant/Counterclaim Plaintiff.

Case No.: C 07-5370 MJJ

**[PROPOSED]
ORDER DENYING PLAINTIFF'S
MOTION FOR SANCTIONS AND
GRANTING DEFENDANT'S MOTIONS
TO STRIKE AND ORDERING
DEFENDANT TO SUBMIT A BILL OF
COSTS RELATED TO PLAINTIFF'S
MOTION**

Hon. Martin J. Jenkins
Courtroom 11, 19th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

**Hearing Date: March 04, 2008
Hearing Time: 9:00 AM**

1 Plaintiff Violet Blue's Motion For Sanctions came on regularly before this Court on March 04,
2 2008. In her opposition to Plaintiff's motion, Defendant Ada Mae (Woffinden) Johnson lodged her
3 motions to strike, a motion sanctioning Plaintiff's counsel and a motion for this Court to find
4 Plaintiff's motion frivolous and ordering her to submit a Bill of Costs and Fees suffered as a result of
5 Plaintiff's motion. The Court considered the pleadings of the parties, the argument presented by
6 counsel, and the papers and file of this case and, for the reasons discussed below, DENIES Plaintiff's
7 motion and GRANTS Defendant's motion.

8 In Plaintiff's Motion, Plaintiff argues that Defendant's refusal to consent to Plaintiff's
9 amendment to the Complaint on the grounds that Defendant was going to oppose the amendment, and
10 subsequent filing of a Notice of Non-opposition amounts to an improper delay tactic. Defendant's
11 counsel avers that Defendant did not act as she did as an improper delay tactic. Defendant argues that
12 Plaintiff's allegations are legal conclusions for which Plaintiff provides no foundation, either by the
13 offer of tangible evidence, or by declaration. The Court agrees. Defendant has moved to strike all
14 references in Plaintiff's Motion that state that Defendant's filing of a Notice of Non-opposition is an
15 improper delay tactic. Defendant's motion is granted and all references in Plaintiff's motion that
16 Defendant's filing of a Notice of Non-opposition is an improper delay tactic are hereby ordered
17 stricken from Plaintiff's motion.

18 In Plaintiff's Motion, Plaintiff argues that Defendant's Notice of Non-opposition was filed in
19 bad faith. Defendant argues that Plaintiff's allegations are legal conclusions for which Plaintiff
20 provides no foundation, either by the offer of tangible evidence, or by declaration. The Court agrees.
21 Defendant has moved to strike all references in Plaintiff's Motion that state that Defendant's filing of a
22 Notice of Non-opposition was done in bad faith. Defendant's motion is granted and all references in
23 Plaintiff's motion that Defendant's Notice of Non-opposition was filed in bad faith are hereby ordered
24 stricken from Plaintiff's motion.

25 In Plaintiff's Motion, Plaintiff argues that Defendant's filing her Notice of Non-opposition was
26 gamesmanship. Defendant argues that Plaintiff's allegations are legal conclusions for which Plaintiff

1 provides no foundation, either by the offer of tangible evidence, or by declaration. The Court agrees.
2 Defendant has moved to strike all references in Plaintiff's Motion that state that Defendant's filing of
3 her Notice of Non-opposition was gamesmanship. Defendant's motion is granted and all references in
4 Plaintiff's motion that Defendant's filing of her Notice of Non-opposition was gamesmanship are
5 hereby ordered stricken from Plaintiff's motion.

6 In Plaintiff's Motion, Plaintiff argues that sanctions should be imposed on Defendant's counsel
7 under 28 U.S.C. § 1927 for his refusal to consent to Plaintiff's amended complaint. In support of her
8 argument, Plaintiff misstates the plain language of Fed. R. Civ. P. 15(a)(2). Defendant argues that
9 Plaintiff's allegations are legal conclusions for which Plaintiff provides no foundation, either by the
10 offer of tangible evidence, or by declaration. The Court agrees. Defendant has moved to strike all
11 references in Plaintiff's Motion that state that Defendant's counsel's refusal to consent to Plaintiff's
12 amended complaint violates Fed. R. Civ. P. 15 and that, as a result, Defendant's counsel is liable for
13 sanctions under 28 U.S.C. § 1927. Defendant's motion is granted and all references in Plaintiff's
14 motion that state that Defendant's counsel's refusal to consent to Plaintiff's amended complaint
15 violates Fed. R. Civ. P. 15 and that, as a result, Defendant's counsel is liable for sanctions under 28
16 U.S.C. § 1927 are hereby ordered stricken from Plaintiff's motion.

17 In Plaintiff's Motion, Plaintiff argues that in refusing consent to agree to Plaintiff's filing of her
18 amended complaint, Defendant's counsel acted with knowing and reckless disregard for Fed R. Civ. P.
19 1. Defendant argues that Plaintiff's allegations are legal conclusions for which Plaintiff provides no
20 foundation, either by the offer of tangible evidence, or by declaration. The Court agrees. Defendant
21 has moved to strike all references in Plaintiff's Motion that Defendant's counsel's refusal to consent to
22 Plaintiff's amended complaint was a knowing and reckless disregard for Fed. R. Civ. P. 1.
23 Defendant's motion is granted and all references in Plaintiff's motion that Defendant's counsel acted
24 with knowing and reckless disregard for Fed R. Civ. P. 1 are hereby ordered stricken from Plaintiff's
25 motion.

26 In Plaintiff's Motion, Plaintiff argues that Defendant's counsel acted in bad faith by

1 withholding consent to allow the filing of Plaintiff's First Amended Complaint and subsequently
2 submitting Defendant's Notice of Non-opposition, all for the purpose of harassing Plaintiff by
3 delaying litigation and increasing costs. *Defendant argues that* Plaintiff's allegations are legal
4 conclusions for which Plaintiff provides no foundation, either by the offer of tangible evidence, or by
5 declaration. The Court agrees. Defendant has moved to strike all references in Plaintiff's Motion that
6 Defendant's counsel acted in bad faith by withholding consent to allow the filing of Plaintiff's First
7 Amended Complaint and subsequently submitting Defendant's Notice of Non-opposition, all for the
8 purpose of harassing Plaintiff by delaying litigation and increasing costs. Defendant's motion is
9 granted and all references in Plaintiff's motion that Defendant's counsel acted in bad faith by
10 withholding consent to allow the filing of Plaintiff's First Amended Complaint and subsequently
11 submitting Defendant's Notice of Non-opposition, all for the purpose of harassing Plaintiff by
12 delaying litigation and increasing costs are hereby ordered stricken from Plaintiff's motion.

13 Defendant has moved the Court to find that it is Plaintiff's Motion For Sanctions that has
14 actually unreasonably and vexatiously multiplied the proceedings in this matter, and to issue an Order
15 appropriately sanctioning Plaintiff's counsel for her participation in the unreasonable and vexatious
16 multiplication of the proceedings, including such monetary sanctions as the Court deems just, to be
17 paid to a charitable organization of the Court's choosing. Defendant's motion is granted and, pursuant
18 to 28 U.S.C. § 1927, Plaintiff's counsel is hereby ordered to pay \$_____ as sanctions for
19 her participation, said amount to be paid to that charitable organization known as
20 _____.

21 Defendant Ada Mae Johnson has also moved this Court to find that Plaintiff's Motion For
22 Sanctions is frivolous, and to issue an Order directing Defendant to submit to the Court a Bill of Costs
23 and Fees suffered in defending this Motion for consideration by this Honorable Court for an award
24 thereon. Defendant's motion is granted, the Court finds that Plaintiff's motion is frivolous and
25 Defendant's counsel is hereby ordered to submit a Bill of Costs and Fees suffered by Defendant in
26 having to respond to Plaintiff's motion to the Court for consideration of an award thereon.

1 Defendant's pleading shall be submitted for consideration no later than ten (10) judicial days following
2 the entry of this order.

3 Having now ordered the above material stricken from Plaintiff's motion, the Court finds that
4 Plaintiff's motion is unsubstantiated by factual support, and fails to state a basis upon which the Court
5 can award the sanctions sought by the Plaintiff. Plaintiff's Motion For Sanctions is therefore denied.

6 IT IS SO ORDERED.

7 DONE IN OPEN COURT THIS _____ day of _____ 2008.

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11 Hon. Martin J. Jenkins
12 UNITED STATES DISTRICT JUDGE
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